



AMERICAN COUNCIL OF THE BLIND

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Charles Crawford
Executive Director

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MAR 24 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

March 24, 2000

Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, S.W., TW-A325
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

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Dear Ms. Salas:

RE: ACB Response to COMMENTS ON NOTICE OF PROPOSED RULEMAKING IN THE
MATTER OF VIDEO DESCRIPTION OF VIDEO PROGRAMMING

MM Docket No.99-339

The American Council of the Blind (ACB) very much appreciates the opportunity to make our response to comments made in the above matter. Inasmuch as ACB is aware that other proponents of descriptive video with solid expertise in relevant areas will be responding to other comments, and in our desire to insure that the FCC is not over burdened with duplicative responses, ACB will limit our review and testimony to the comments of the National Federation of the Blind. This is appropriate since both ACB and NFB are the only two national organizations of civilian consumers who are blind.

The Federation opens their commentary with the fact that they support the continued development of descriptive video on a voluntary basis rather than a federal mandate. ACB applauds this recognition by the Federation that descriptive video is a valuable method of information access; however, we must point out that well over a decade of history shows that the only way descriptive video will ever provide our community with the access we seek is through the rules proposed by the FCC.

The Federation next creates an exemption from its own recommendation of only voluntary compliance, to allow for mandatory access to important information of a visual nature in areas such as the news and public affairs broadcasts, scrolling emergency and other text based information, and video of local sports scores. They then quickly make the point that these types of information are not purely entertainment and thus have a greater reason to be mandated. ACB agrees as we have testified in the past that such information is critical to have, if blind people are to be engaged in our community life. We therefore again applaud the stance of the Federation, but must disagree that what they minimize by characterizing as entertainment does not also have a critical role in the life of a blind person. In fact, television entertainment constitutes a major portion of time spent by most

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Americans and for blind persons to have the opportunity to fully engage in the mainstream, we must have the choice to share in the experience of others and hence to relate on an equal standing.

This notion of equal access fostering equal standing is at the heart of the discussion. While the Federation may not find various material in video description to be necessary, the reality is that visual occurrences and props were deliberately designed in the writing of the program to make, emphasize, and link other events and themes therein. The Federation discounts what they portray as the describing of costumes and lighting and so forth as a means of demonstrating a lesser value to description. Do these things not often set the tone, provide suspense as to the intent of the character, furnish clues to what might happen next, or give the viewer an opportunity to more fully understand with what the players in the production are contending? If a costume is an army uniform or the lighting is dark with menacing other actors present, then do these things not have direct bearing on the understanding of the program? Moreover, if the costume reveals something of the identity of the person wearing it, then should a blind person not have the same opportunity to put together the clues?

Next the Federation makes the point that there are not all that many blind persons and even within this population, there are many who can actually see the television except for scrolling text. They make this assertion to underscore the need for access to textual information that often is of an important nature. ACB clearly agrees that the text must be accessible and we offered solutions to that problem in our original testimony. However, for NFB to leave the reader with the impression that there are so few blind persons is misleading in that: 1) the assertion that folks with partial vision can see the screen ignores that they often cannot do so with the same results that descriptive video renders, 2) there is a substantial dispute as to the actual numbers of blind persons they represent to be impacted upon by the proposed rule, 3) there are many people labeled visually impaired or low vision who are not legally defined as blind that can benefit from video description just as hard of hearing people do from closed captioning, 4) Persons with low vision should not be forced to sit inches away from the screen or use magnification equipment for long periods of time which could have a negative impact upon their small amount of remaining vision, and 5) the use of numbers in what is essentially a civil rights issue only serves to imperil the rights of those affected.

The mixing by the NFB of numbers on the one hand, and a right to access to scrolling text on the other, further serves to confuse the issue. It begs the question of when are there enough numbers to justify what? Moreover, the civil rights aspect of access to information provided to the public cannot be subjected to capricious notions of you can ride the bus because you need to get places, eat at the restaurant because you need food, but not attend the movie because its only entertainment. There are to be sure, reasonable exemptions to the requirements of the proposed rules, but the arguments thus far from the Federation have not been informative to this standard.

Next the Federation offers nine discrete points to argue against video description. We will take these one at a time.

1. Federal mandate lacks sufficient support among blind people.

Here we paraphrase, that the Federation argues they are the largest organization of blind persons in the nation, they do not approve of mandatory video description, and the imposition of it would distract people from the really important issues.

Even if we put our doubts aside and took them at their word that they are the largest organization of blind persons, their own membership numbers suggest that the ninety five percent of the remaining blind population are on the jury that appears to be voting in favor of descriptive video. The sales of described video cassettes, the popularity of described video at the national conventions of both ACB and NFB, and the popularity of the emerging video description at first run movie houses all point to broad based support for the FCC rule. Furthermore, ACB absolutely supports the right of Federationists to choose not to watch descriptive video, but clearly our membership and the blind community at large must reject their self-presumed authority to make that choice for the rest of us. ACB is attaching hundreds of letters from blind people across the United States to underscore this point.

2. Audio description not an analogue to closed captioning.

Here the federation makes the point that there are many radios sold that have television sound and hence the programming content can be understood as contrasted to closed captioning which is required for such understanding. ACB agrees that these radios are very beneficial for certain purposes, but to argue that they can replace the visual information in a program defies common sense. These radios can be very useful for listening to morning talk shows, evening news and other programs where you are not fully paying attention; but it would be hard to find many who purchased these radios gathered around the living room during prime time, listening to their favorite programs. If this were the case, then the blind community would have never embraced video description in the way that it clearly has.

3. No standards exist.

Here the Federation would have us believe that descriptive video is much more difficult to produce since unlike closed captioning, there are a great number of subjective judgments that must be made on what is to be presented. They go on to make the point that some video described programs are annoying and producers should not be forced to make costly investments in them.

The Federation is highly misinformed in both of these areas. Closed captioning requires many judgements as to how to report what is being said since it is not always possible to do a word for word transcription. Closed captioning also requires judgements as to timing and placement as well as the translation of music and sound effects into text equivalents. These judgements are similar to the decisions made by a video describer.

In the matter of costs, ACB has already testified on the cost issue and demonstrated that these costs are so small as to be insignificant when viewed in the context of the budgets of television production. This information has also been verified with those producing descriptive video.

4. Safety first.

Here the NFB makes the point that any secondary audio channel use should be used for emergency information. Then the Federation uses the following example to make the point:

"It would indeed be ironic if the SAP channel were unavailable to warn blind people about an impending emergency because it was already tied up describing the set of some sitcom so that a network could comply with its government-imposed audio description mandate."

This quote unfortunately demonstrates three points. First, the Federation is not allowing for the utilization of inserted information into the SAP channel that could be done irrespective of whether it was occupied or not. Second, the reference to a situation comedy versus vital information makes for good drama, but hardly their point. Third, the anti-government sentiment mentioned in the example is gratuitous and at best reflective of a differing agenda.

5. The news exclusion.

Here NFB points out that live news shows that display the name of a speaker should make that information available and must be seen as having more importance than video described entertainment.

ACB agrees that video described or other ways of making this information available is highly important. Using this singular concern, however, as a way to dismiss video description of entertainment would be to deny blind audience members with the choice of what they would watch. Moreover, placing the choices into an equation of news or nothing is a denial that both news and entertainment can happen simultaneously on different channels as it already does for television audiences.

6. Other printed information.

ACB agrees with the points made by the Federation with respect to what we have called video graphics. We quote them here to save the reader the time of having to search for them in the NFB comments.

"Many advertisements contain print-displayed information such as phone numbers and addresses. Some of these advertisements are carried on networks, but others are local. Just behind print-displayed emergency and news information, our experience is that blind people complain most about not being able to get the information printed on the screen during advertisements. This information is sometimes health-related. Sometimes it steers people to other sources of information, such as government agencies. Many blind people have reported calling stations only to find out that such information is not retained by the stations. Without the information being voiced as it is displayed in print visually, there is simply no way blind people can get the data."

7. Focus on needed information instead of networks.

ACB is not clear on where the Federation is going with this point. They seem to assume that information that needs to be described which originates at the local level is exempted from the rule.

We believe the rule covers this issue already.

8. Needs of Spanish-speaking blind people.

The Federation makes the point that Spanish-speaking blind people would be better served by having the secondary audio channel used for translation of English dialogue into Spanish rather than an English rendering of video description. ACB has already addressed the issue of Spanish and other competing SAP interests in our original comments and does not see any significant difference in this matter.

9. Conclusion.

NFB concludes with the recommendation that the FCC put news and emergency voice output first, then deal with entertainment with a view to all program originators.

ACB concludes that the proposed rules further the interests of the blindness community and that the issues raised by the Federation that are material to video description itself can be accommodated within the context of the current proposal.

Sincerely,

A handwritten signature in dark ink, appearing to read "Charles H. Crawford", with a stylized flourish at the end.

Charles H. Crawford
Executive Director



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APPENDIX A

257 Letters of Consumer Support

All Letters of Support for Descriptive Video are attached to
the original document



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Anne Fesh

From: Michael Byington [michael.byington@envisionus.com]
Sent: Thursday, March 23, 2000 4:34 PM
To: 'info@acb.org'; 'ecfs@fcc.gov'; 'bkennard@fcc.gov'; 'sness@fcc.gov'; 'hfurchtg@fcc.gov'; 'mpowell@fcc.gov'; 'gtristan@fcc.gov'; 'abyington@cjnetworks.com'; 'sja3@southwind.net'; 'goren@southwind.net'; 'webmaster@fcc.gov'; 'troth@ink.org'
Subject: video description

TO: The Federal Communications Commission

FROM: Michael Byington, Director of Governmental Affairs, Envision

RE, Docket 99339 - Video Description

March 23, 2000

Envision is a not for profit corporation which provides employment, rehabilitation, and advocacy services for people who are blind or who have low vision. Most of our operations are located in the State of Kansas although we engage in some employment related activities on a nation wide basis. Of our 200 employees, over 100 are blind. We serve over 500 persons who are blind per year with regard to employment, community resources, rehabilitation services, or advocacy services.

Our experience is that our blind employees and associates find video description to be essential to having equally effective communications when compared with sighted peers, Video description is a matter of equal access to information.

We support video description being provided by all television networks and for all programming. We believe it is a service equivalent to closed captioning for people who are deaf or hearing impaired, and that it should be at least as readily available as closed captioning.

We deplore comments from certain organizations claiming to represent the blind population, and claiming that video description is not necessary for entertainment programming, or suggesting that there should be a prioritization where things such as weather alerts take precedence over other types of entertainment and educational information available alike to any sighted person who may choose to watch television. We can not put a value on information and say that blind people are only entitled to some of it. In our view, to do so would be to raise our own version of violating the first amendment of the United States Constitution.

As to the Constitutional arguments made by some of the major networks, and suggesting that imposing video description on an artistic product in some way alters free speech by making the product something other than what it originally was, the network concerns are not consistent with a logical and reasonable interpretation of Constitutional law.

The argument of the attorneys for the networks and certain other commentators is that the (they allege, scripted, descriptive comments may feature mis-interpretations, or different interpretations from the original creators of the artistic product. They suggest that this limits the free speech of the creator or creators of the original artistic product. The fallacy with this logic is that video description is brought into the television set voluntarily through the separate audio programming (SAP) feature of the television. The original artistic product is still available

untouched, and in its original form. The video description is not present unless the SAP is voluntarily engaged. A more true analogy would be that I could go purchase an expensive piece of art. I could then display that art in a frame which some critics do not like or do not feel compliments the art in ways they feel it should. The use of such a frame does not compromise the original art. It is an overlay which can be removed. This is a good direct analogy of what video description is to the artistic product being described. It is a frame, an overlay. It does not change the original product and it can be removed.

Transversely, the Constitutional arguments fall squarely in support of a wide spread requirement for video description. A few years ago, Congress decided to no longer allocate money to print the Braille issue of "Playboy" Magazine. Certain Congresspersons felt that blind people did not need access to the type of written materials in "Playboy." The pictures have never been reproduced for Braille users. At least, Congress felt that the Government should not control or participate in the provision of this type of information for people who are blind. This issue received judicial review, and the courts found that the withdraw of the Braille edition of "Playboy" when indeed this publication was requested by many more blind readers than was the case with other documents the federal government Brailles, was to subject the blind to a level of censorship and with-holding of information greater than is placed on sighted citizens. The court ruled that when there is a way in which equal access to information, and equally effective communications, can be provided, then indeed this level of access must be provided in order to insure equal access to information. This same argument fits quite well into the line of questioning the FCC has undertaken with regard to video description. To not require it, given that it is possible, is to barr access to information and thus to limit the first amendment rights of people who are blind.

Some of the commentators also suggest that there is an undue burden of expense in providing video description. It must be pointed out that the most expensive way of providing the service is the only one they are addressing. The creation of a video description tract does not need to be a two tiered process. Video description is often done for live theatre. The methods used in these types of presentations is that the video describer attends some rehearsals of the play, or productions of the show prior to the description being done. This allows for a certain amount of familiarity or "rehearsal" on the part of the description personnel, but then the description is done live, and without script. This method could be used in creating initial description tracts for television shows as well. It would perhaps not be quite the quality of fully scripted and rehearsed description, but it would be much less expensive and would negate the two tiered production argument made by segments of the industry.

Blind and low vision people are simply asking for the same information the rest of society gets. This has relevance far past the concept of being entertained. Sighted people learn about what is popular in fashion, what is appropriate attire for a job interview, etc. largely from sources such as television. This is the kind of information which is not available for people who are blind or low vision without video description. It is information which helps people who are blind and low vision be productive and fit into society.

Lastly, I want to provide some personal comments. I am legally blind. My vision is estimated to be around 20/200 to 20/300, and this puts me at the top end of legal blindness. I always thought I was seeing television pretty well and getting most of the story until I heard my first video description and found out all of the things I had been missing. My wife is totally blind. When we watch

television together, this experience too allows me to realize how important video description can be. More times than I can count, my wife has asked me during a non-dialogue section of a thrilling television show, "What's happening?" More often than not, I learn at the voicing of this question that, I really do not know. I have been fooling myself into thinking I see well enough to really know what is happening on television, but I do not.

Macular degeneration has now become the leading cause of blindness. It results in vision much like that which I have always experienced due to a birth defect, but the condition is most prevalent in people who are over the age of 65. These are retired tax payers who have the time to enjoy television, an they should have the right to still be able to get the information they need.

Please make the networks provide access so all Americans may have equal access to information. Thank you.

□

Anne Fesh

From: Mike Duke [MikeD@etv.state.ms.us]
Sent: Thursday, March 23, 2000 2:09 PM
To: info@acb.org
Subject: I Support Video description

Mike Duke,
President,
Mississippi Council of the Blind

Mike Duke
Reading Service Coordinator
601-432-6301

Anne Fesh

From: Monica Lederbrand [mbha@springnet1.com]
Sent: Thursday, March 23, 2000 7:09 PM
To: info@acb.org
Subject: I support descriptive Video

To whom it may concern:

I have been involved with the blind community for the past twelve years. I have had the opportunity on many occasions to describe television and motion picture to the blind and visually impaired. I know at times throughout the programming that I have missed important facts that the blind viewer needs to know. I believe that descriptive video enhances the viewing for blind and visually impaired. I am not blind or visually impaired but I do support the FCC proposed rules for descriptive video MM Docket #99-339

My name is Monica Lederbrand
Administrator
Mary Bryant Home
2960 Stanton Ave
Spfld, IL 62703

Anne Fesh

From: Monica Lederbrand [mbha@springnet1.com]
Sent: Thursday, March 23, 2000 7:25 PM
To: info@acb.org
Subject: "I support descriptive video"

My name is Grace Barnes, I am blind and 84 years old. I live at 2960 Stanton Avenue, Springfield, IL, 62703. I support support the FCC proposed rules for descriptive video MM Docket No. 99-339

Anne Fesh

From: Monica Lederbrand [mbha@springnet1.com]
Sent: Thursday, March 23, 2000 7:29 PM
To: info@acb.org
Subject: "I support descriptive video"

My name is Rita Betit, I am blind and 71 years old. I live at 2960 Stanton Avenue, Spfld, IL 62703. I support the FCC proposed rules for descriptive video MM Docket No. 99-339

Anne Fesh

From: Monica Lederbrand [mbha@springnet1.com]
Sent: Thursday, March 23, 2000 7:31 PM
To: info@acb.org
Subject: "I support descriptive video"

My name is Joann Bolen, I am blind and 67 years old. I live at 2960 Stanton Avenue, Springfield, IL 62703. I support the FCC proposed rules for descriptive video Docket MM 99-339

Anne Fesh

From: Monica Lederbrand [mbha@springnet1.com]
Sent: Thursday, March 23, 2000 7:33 PM
To: info@acb.org
Subject: "I support descriptive video"

I am Donald Bormet, I am blind and 61 years old. I live at 2960 Stanton Avenue, Springfield, IL 62703. I support the FCC proposed rules for descriptive video MM Docket No. 99-339

Anne Fesh

From: Monica Lederbrand [mbha@springnet1.com]
Sent: Thursday, March 23, 2000 7:35 PM
To: info@acb.org
Subject: "I support descriptive video"

I am Ellen Boxrud, I am blind and 66 years old. I live at 2960 Stanton Avenue, Springfield, IL 62703. I support the proposed rules for descriptive video MM Docket No. 99-339

Anne Fesh

From: Monica Lederbrand [mbha@springnet1.com]
Sent: Thursday, March 23, 2000 7:39 PM
To: info@acb.org
Subject: "I support descriptive video"

My name is Sharon Fisher, I am blind and 50 years old. I live at 2906 Stanton Avenue, Springfield, IL 62703. I support the FCC proposed rules for descriptive video MM Docket No.99-339

Anne Fesh

From: Monica Lederbrand [mbha@springnet1.com]
Sent: Thursday, March 23, 2000 7:49 PM
To: info@acb.org
Subject: "I support descriptive video"

My name is Charlen Crawford, I am blind and resident of the Mary Bryant Home for the Blind. My Home is located at 2960 Stanton Avnue, Springfield, IL 62703. I support the FCC proposed rules for descriptive video MM Docket No. 99-339

Anne Fesh

From: Monica Lederbrand [mbha@springnet1.com]
Sent: Thursday, March 23, 2000 7:51 PM
To: info@acb.org
Subject: I support descriptive video

My name is Sharon Fisher, I am blind and I support the FCC Proposed rules for descriptive video MM Docket No. 99-339

Anne Fesh

From: Monica Lederbrand [mbha@springnet1.com]
Sent: Thursday, March 23, 2000 7:53 PM
To: info@acb.org
Subject: I support descriptive video

My name is Robert French, I am blind and reside at the Mary Bryant Home for the Blind, 2960 Stanton Ave., Spfld, IL 62703. I support the FCC proposed rules for descriptive video MM Docket No.99-339

Anne Fesh

From: Monica Lederbrand [mbha@springnet1.com]
Sent: Thursday, March 23, 2000 7:54 PM
To: info@acb.org
Subject: I support descriptive video

My name is Sharon Foust, I am Blind and reside at tthe Mary Bryant Home for the Blind, 2960 Stanton Avenue, Springfield, IL 62703. I support the FCC proposed rules for descriptive video MM Docket No. 99-339

Anne Fesh

From: Monica Lederbrand [mbha@springnet1.com]
Sent: Thursday, March 23, 2000 7:56 PM
To: info@acb.org
Subject: I support descriptive video

My Name is Karon Foust, I am blind and I reside at the Mary Bryant Home for the Blind, 2960 Stanton Avenue, Springfield, IL 62703. I support the FCC proposed rules for descriptive video MM Docket No. 99-339.

Anne Fesh

From: Monica Lederbrand [mbha@springnet1.com]
Sent: Thursday, March 23, 2000 7:57 PM
To: info@acb.org
Subject: I support descriptive video

My name is Deb Gaultney, I am blind and I reside at the Mary Bryant Home for the Blind, 2960 Stanton Avenue, Spfld, IL 62703. I support the FCC proposed rules for descriptive video MM Docket No. 99-339

Anne Fesh

From: Monica Lederbrand [mbha@springnet1.com]
Sent: Thursday, March 23, 2000 7:59 PM
To: info@acb.org
Subject: I support video services

My name is Gerry Graff, I am blind and I reside at the Mary Bryant Home for the Blind, 2960 Stanton Avenue, Spfld, IL 62703. I support the FCC proposed rules for descriptive video MM Docket No.99-339